



# Evergreen Freedom Foundation

A Nonprofit Public Policy Research Organization

DATE FILED PDC

JUN 2 2004

June 2, 2004

RECEIVED

JUN 3 - 2004

Public Disclosure Commission  
PO Box 40908  
Olympia, WA 98504

Public Disclosure Commission

Dear Phil Stutzman,

I wish to register a complaint against the Seattle School District, district employee Ed Herbert, district employee Dennis Nusbaum, and the district employees responsible for the main office of the Chief Sealth High School of the Seattle School District for using public facilities to conduct an election campaign.

The enclosed e-mail messages were sent by district employees from a district account using the "all staff" mailing function. The messages indicate the school mail system will be used to deliver Referendum 55 petitions, and that the sheets will be collected at the "front desk."

I also learned from a Seattle School District employee who wishes to remain anonymous at this time that the front desk of Chief Sealth High School has recently displayed a Referendum 55 petition sheet for signature gathering. I would like this allegation investigated.

Sincerely,

Jami Lund  
Evergreen Freedom Foundation

EXHIBIT 1

Page 1 of 3

> -----Original Message-----

> From: Nusbaum, Dennis

> Sent: Wed 5/12/2004 10:50 AM

> To: !Ballard Allstaff

> Cc:

> Subject: FW: R-55 petitions

> Colleagues,

> Please return completed petitions by noon tomorrow.

> The remaining incomplete or yet to be completed petitions will be  
> collected on 5/24/04.

> Thanks...Dennis

> -----Original Message-----

> From: Crain, Maggie

> Sent: Wednesday, May 12, 2004 9:34 AM

> Subject: R-55 petitions

> Dear Building Representatives:

> SEA President John Dunn, SEA staffer Ben Ibale, Substitute Dept. Vice  
> Chair George Hoyt or I will be coming by your school tomorrow,  
> Thursday, May 13 to pick up R-55 petitions that your staff has returned to  
> you.

> Please leave them in an identifiable packet at the front desk.

> Collection will start at 9:00, so please have the packets ready and at  
> the front desk by that time. Thank you.

> It's important that we collect all the signatures your staff currently  
> has so we can do what Ben calls a "temperature check." It will give us  
> a gauge as to how hard we have to work to reach our goal of 10,000  
> signatures by June 4. Any petitions that you receive after tomorrow  
> morning, please bring to the R.A. on May 24.

> Don't forget that a fun group of people is coming together to  
> circulate petitions at the Mariners' games next week. Please let me  
> know if you'd like to join us. The signature gathering will be at 6:00 p.m.

> -- Maggie Crain

> Associate Executive Director

> Seattle Education Association

> 720 Nob Hill North

> Seattle, WA 98109

> 206.283.8443 x204

> mcrain@washingtonea.org

>-----Original Message-----

>From: Herbert, Ed

>Sent: Wednesday, June 02, 2004 7:21 AM

>To: !Ballard Allstaff

>Subject: FW: June 2 pick up of Petitions

>

>

> Anyone who still has a petition for Referendum 55 or I - 884 ...

>Please put them in Dennis Nusbaum or my mailbox. They will be picked up

>by SEA folks today.

>Thanks !

>

>

>Subject: June 2 pick up

>

>

>

>A team of SEA folks will be coming by schools on Wednesday, June 2 to

>pick up signed petitions. Please pull them together and have them ready

>at the front desk. Thanks!!

>

>-- Maggie Crain

>Associate Executive Director

>Seattle Education Association

>720 Nob Hill North

>Seattle, WA 98109

>206.283.8443 x204

>mcrain@washingtonea.org

>

DATE FILED I

JUN 26 21

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JUN 28 2004

Public Disclosure Comm

June 24, 2004

Philip E. Stutzman  
Director of Compliance  
Public Disclosure Commission  
711 Capitol Way, Room 206  
PO Box 40908  
Olympia, WA 98504-0908

RE: PDC Case No. 04-664

Dear Mr. Stutzman:

I am writing this statement in response to your letter of June 11, 2004. Please send any future correspondence in this matter to my attorney, Harriet Strasberg whose address is 3136 Maringo SE, Olympia, WA 98501.

I am a special education teacher at Ballard High School in the Seattle School District. The 2003-04 school year is my eighteenth year working in this District.

I received a copy of a complaint filed with the Public Disclosure Commission by the Evergreen Freedom Foundation in June 2004 against me and district employees at Chief Sealth High School. I know nothing about the events that occurred at Chief Sealth High School as I do not teach there.

In Ballard High School, there are approximately 130 employees. There is no effective way to reach these employees except for the use of email. Employees do not come and go at the same time; some are itinerant staff with inconsistent or odd hours; employees do not congregate in a faculty lounge as everyone has different lunches. Many employees stay in their classroom or do other things during their duty-free lunch.

I wrote an email that I sent to school staff. I consider the content of the e-mail that I wrote to be informational and very neutral. I did not intend my email to support the referendum or to encourage people to support the Referendum. I was merely forwarding an email that I had received from Seattle Education Association in an attempt to fulfill my obligation as building representative for SEA by informing staff of the timeline for petition collection. I was not encouraging staff to support the Referendum 55.

Very truly yours,



DENNIS NUSBAUM

EXHIBIT 2

Page 1 of 1

**PDC Interview of Dennis Nusbaum**  
**by Suemary Trobaugh**

*July 28, 2004*

Olympia, Washington

*Tape 1, side A*

TROBAUGH: This is the statement of Dennis Nusbaum for PDC Case #04-664. The time is now 11:16 and the date is July 28th of 2004. I am Suemary Trobaugh of the Public Disclosure Commission also present is Harriet Strasburg, attorney for Dennis Nusbaum and Sally Parker of the Public Disclosure Commission. This statement is being recorded from the offices of the PDC in Olympia Washington. And Sally Parker is now going to administer the oath.

PARKER: Good morning. Can you hear me okay?

NUSBAUM: Yes I can.

PARKER: Okay. Please raise your right hand. Do you promise the answers you are about to give will be the whole truth and nothing but the truth?

NUSBAUM: I do.

PARKER: Thank you very much.

TROBAUGH: Thank you. And Sally is now going to be leaving the room. Dennis can you if you understand that this statement is being recorded?

NUSBAUM: Yes. I do. I understand its being recorded.

TROBAUGH: Okay. For the record and voice identification, please say your full name and spell the last.

NUSBAUM: My full name is Dennis Barry Nusbaum. And Nusbaum is spelled N-U-S-B-A-U-M.

TROBAUGH: Could I please have a contact address for you?

STRASBURG: Just use mine. Harriet Strasburg, 3136 Marengo Southeast, Olympia, Washington 98501.

TROBAUGH: Could I also please have a contact telephone number?

STRASBURGH: Just use mine. 360-754-0304.

TROBAUGH: Okay. In your letter Dennis, you state that you've been a teacher for 18 years.

NUSBAUM: Actually that's not correct. I have been a teacher in the Seattle School District for 18 years.

TROBAUGH: Okay. How long have you been a teacher all together?

NUSBAUM: I believe its 26 years.

TROBAUGH: Okay. How long have you worked at Ballard High School?

NUSBAUM: Last year, I just completed by 4<sup>th</sup> year.

TROBAUGH: Okay. Can you tell me how long you've been a building representative?

NUSBAUM: One year.

TROBAUGH: Have you ever worked on any campaigns?

NUSBAUM: No. Well I worked on the levy campaign. The most recent levy campaign.

TROBAUGH: Can you briefly describe what you did for that campaign?

NUSBAUM: I showed up at the campaign headquarters one night I think, down on Westlake Avenue in Seattle and I forget what I did. Stuffed envelopes or some mundane type activity like that.

TROBAUGH: Okay. Are you aware of the prohibition on using public facilities in election campaigns?

NUSBAUM: I guess I could say I'm becoming more aware of that. Probably as a result of this process that I'm involved in now. I wasn't particularly aware of that prior to these events.

TROBAUGH: Prior to the complaint being filed against you?

NUSBAUM: Right.

TROBAUGH: Okay. So have you read the statute?

NUSBAUM: I don't believe so.

TROBAUGH: Okay. Can you tell me how you are aware of the prohibition?

NUSBAUM: Well I got a, I got a letter forwarded to me by my principal that was sent from the school district's attorney to my principal. Apparently when this complaint was made. And I don't remember exactly but its possible that that letter included a couple of lines from the, you know, the law, the regulations concerning the use of public facilities. But other than that, I mean that's the only really specific thing I can think of.

TROBAUGH: Okay. Can you just briefly state for me what your understanding now is of the prohibition?

NUSBAUM: My understanding, I guess my understanding at least as it was told to me by my principal was that I'm not to use the school's facilities, email in particular, for any kind of political activity involving initiatives, referendums, or the promotion of particular candidates.

TROBAUGH: Okay.

NUSBAUM: Yeah. That's about it.

TROBAUGH: Okay. Can you tell me if you've ever read the PDC's Guidelines for School Districts in Election Campaigns?

NUSBAUM: No, I haven't.

TROBAUGH: Okay. Do you recall if the district or your school every distributed the PDC's Guidelines for School Districts in Election Campaigns?

NUSBAUM: I don't remember.

TROBAUGH: Okay. Can you tell me if you've ever attended any training on using Public Facilities in Election Campaigns?

NUSBAUM: I'm sure I didn't.

TROBAUGH: Okay. Are you aware if the district employee manual discusses the prohibition on using public facilities in election campaigns?

NUSBAUM: I don't know if it does or it doesn't.

TROBAUGH: Okay. Is the employee manual something that is in the district office?

NUSBAUM: I don't know. I would imagine it is if it's a district employee manual.

TROBAUGH: It's not something that's distributed to the employees? To the teachers? Or is it?

NUSBAUM: It might be when you're first employed. I would imagine. But I'm not sure.

TROBAUGH: Okay. It's not something that you recall receiving or looking at?

NUSBAUM: No.

TROBAUGH: Okay.

NUSBAUM: You know, when you are employed by the district, you get lots and lots of paper. The other thing is is that as I'm sure you know, these things are probably quite dynamic so what's in the manual several years ago...

TROBAUGH: May be updated.

NUSBAUM: Yeah. Or may not be current. So I really don't I have no recollection of any manual as you're speaking of.

TROBAUGH: Okay. Fair enough. I faxed over some documents to Harriet for us to review during the interview.

NUSBAUM: Sure.

TROBAUGH: And I wonder if you could page to 6 and 7 which have email correspondence.

NUSBAUM: Hold on a second. Page two...

STRASBURG: Okay. We've got 6 and 7.

TROBAUGH: Okay. Great. Dennis can you tell me if you wrote this email entitled "Referendum 55 Petitions" that's dated May 12<sup>th</sup>?



NUSBAUM: The little part there that says "colleagues please return the petitions by noon tomorrow. The remaining incomplete, or yet to be completed..." yeah. That little piece.

TROBAUGH: You wrote?

NUSBAUM: I wrote. Correct.

TROBAUGH: Okay. Did you write that email using a school computer?

NUSBAUM: Yes I did.

TROBAUGH: Okay. Can you tell me why you sent this email to all of the staff?

NUSBAUM: I sent it to all of the staff because I was fulfilling my responsibilities as a building rep to communicate this information to the staff. And I didn't have a separate address book for just SEA members. So I sent it to the entire staff which included administration as well and custodians and whoever else I suppose.

TROBAUGH: Okay.

NUSBAUM: We have 130 or so members in the building. And I guess I decided that when they read the email it would become clear to anybody who read it whether or not it pertained to them. But the vast majority of people in the building this email would have pertained to.

TROBAUGH: Okay. Was this a routine step that you would do as a building rep is when you would receive union correspondence that you would forward it on to all staff or was this unique?

NUSBAUM: This was unique.

TROBAUGH: And can you tell me why?

NUSBAUM: Well this is basically in my tenure as a building rep this is the first time that we had something like this going on. You know, where we had an initiative or a petition. Other types of union activities, I mean we would occasionally, like if we had a building SEA meeting we

would send an email out to everybody inviting them to the building SEA meeting. But that's, you know, was, I guess that's somewhat different than this.

TROBAUGH: Okay. Did anyone suggest to you to forward this email from Maggie Crane or was that just something you took the initiative to do on your own?

NUSBAUM: It seemed as though the only way that we were going to be able to reach this 130 people. To me.

TROBAUGH: So it was something that you took the initiative to do on your own?

NUSBAUM: Yeah.

TROBAUGH: No one asked you to, can you just forward this to people?

NUSBAUM: No.

TROBAUGH: Okay. In the letter that you sent to the PDC dated June 24<sup>th</sup>, you say that you believe that your email was neutral and that you didn't intend to encourage people to support the Referendum.

NUSBAUM: Right.

TROBAUGH: Besides sending the email, did you have any other involvement with Referendum 55 activity?

NUSBAUM: Yeah. I collected, I collected some of the returned petitions and you know, people brought them to me and, I'm trying to think of anything else I did. Actually I didn't even collect any signatures.

TROBAUGH: Okay.

NUSBAUM: Let's see. And yeah, I can't really think of anything else that I did.

TROBAUGH: Did you distribute petitions to people?

NUSBAUM: Yeah. I guess I did. People had to come to either me or one of the other building reps and sign for a petition. Or initial for a petition to turn, you know.

**PDC Interview**  
**Dennis Nusbaum**  
July 28, 2004  
Page 7 of 14

TROBAUGH: So that you could track?

NUSBAUM: Right.

TROBAUGH: Okay. So that was something that was done in person. People would come up to you and pick them up. Is that correct?

NUSBAUM: That's correct.

TROBAUGH: Okay. Can you tell me, did you distribute the petitions while you were at your school?

NUSBAUM: I did distribute them while I was at school that's, I mean these people aren't going to meet me at the corner, you know at the 7/11 down the corner or come to my house.

TROBAUGH: Okay.

NUSBAUM: Yes. I distributed them and they were usually distributed after school or before school. Some of them might have been distributed during my planning time.

TROBAUGH: Okay. How many approximately would you say that you distributed?

NUSBAUM: I don't know. Half of what were distributed maybe. Just a guess. I mean there were two of us distributing them. So...

TROBAUGH: Can you quantify that at all?

NUSBAUM: Well we had 130 members and I think we probably distributed to close to everybody. So that would probably be in the range of 60 to 70.

TROBAUGH: Okay. And you just also said that you collected petitions as well.

NUSBAUM: Yes.

TROBAUGH: When people were returning petitions, signed petitions, to you, were they hand delivering them?

NUSBAUM: Were they hand delivering them?

TROBAUGH: To you. To your room.

NUSBAUM: Some were. Some I come to my, come and find them just sitting on my desk. People would come in and just plop them down on my desk.

TROBAUGH: Okay. Did they also put them in your mailbox?

NUSBAUM: Some were placed in my mailbox.

TROBAUGH: Okay. Did you place a packet at the front desk for...

NUSBAUM: I did not.

TROBAUGH: Did that happen at your school?

NUSBAUM: I believe it probably did. But I'm not sure.

TROBAUGH: Okay.

NUSBAUM: Some mechanism by which these things were picked up.

TROBAUGH: Right.

NUSBAUM: It probably did. I didn't do it though.

TROBAUGH: Okay. Back to your email, because it went to all staff, did this email also, did that include your principal? Did your principal receive the email?

NUSBAUM: Should have.

TROBAUGH: He should have?

NUSBAUM: Uh-huh.

TROBAUGH: Okay. Can you please tell me your principal's name?

NUSBAUM: The principal's name was Charles Chin. He's no longer the principal.

TROBAUGH: Okay. Did he retire or was he reassigned or?

NUSBAUM: Well he was actually called out of retirement to serve as a interim principal at our high school for the, pretty much the second semester of last year. And now he is going to be an interim principal at Roosevelt High School.

TROBAUGH: I see. Okay. Did you ever speak to your principal concerning the email that you had sent?

NUSBAUM: Only when he delivered the message to me from the school district's attorney that this complaint had been filed.

TROBAUGH: Okay. Could you be a little bit more descriptive about that conversation? Did he share anything with you at that conversation?

NUSBAUM: Just, you know he handed me this letter and he told me that, basically that I'm in trouble with this particular agency and, you know I guess he pretty much told me that, you know, that I shouldn't be doing whatever it is that I had done or whatever.

TROBAUGH: But he didn't come to you after that May 12<sup>th</sup> email was sent out? He didn't, after receiving the email.

NUSBAUM: I don't know which email you're talking about.

TROBAUGH: The email that you sent to all staff was...

NUSBAUM: No. No.

TROBAUGH: Okay. So the complaint, we notified, I guess the date on our letter informing you that a complaint had been filed was June 11<sup>th</sup>.

NUSBAUM: Right.

TROBAUGH: So it was sometime after June 11<sup>th</sup> that he came to you and said look there's a complaint filed and by the way you shouldn't have done it.

NUSBAUM: Right. And the only time that I spoke to him about this issue.

TROBAUGH: Okay. So prior to that, after your email was sent, your principal never came to you and said that that activity was...

NUSBAUM: Forbidden.

TROBAUGH: ...a problem.

NUSBAUM: No.

TROBAUGH: Okay. Can you tell me why you believed you could use the staff email to distribute information on Referendum 55?

NUSBAUM: Probably because the district, the district clearly, you know the union in order to be able to function within the district has to be able to communicate with its members. And I just thought that, you know, this was just a natural part of that relationship. That it's not an adversarial relationship between the district and the union and that this was just informational.

TROBAUGH: Okay.

NUSBAUM: This was just basically a taking care of business type thing. I mean that's basically what I thought.

TROBAUGH: Okay. Can you describe to me how you know Ed Herbert?

NUSBAUM: He and I work together and we've known each other for a very long time. And we're friends at times as well.

TROBAUGH: Okay. And he is also another building rep as well? For your building.

NUSBAUM: Yes.

TROBAUGH: Okay. Looking back to the documents that I had faxed over prior to the interview, on page 7 I have an email from Ed Herbert to all staff.

NUSBAUM: Uh-huh.

TROBAUGH: Dated June 2<sup>nd</sup>. And do you recall receiving this email from him?

NUSBAUM: Probably. I mean I, you know, I don't...

TROBAUGH: No specific memory.

NUSBAUM: Yeah. But I see these things and yeah, I would say I probably recall.

TROBAUGH: Okay. Can you tell me why Mr. Herbert stated that people could place petitions for Referendum 55 and Initiative 884 in your mailbox?

NUSBAUM: I guess my guess is that he thought that that would be an efficient and non disruptive manner in which to collect these things.

TROBAUGH: Okay. You didn't have any kind of prior agreement that that's what you all would be doing?

NUSBAUM: We might have discussed a strategy for collecting them.

TROBAUGH: Okay.

NUSBAUM: I don't recall specifically.

TROBAUGH: Okay. Did anyone suggest to you two that you could use the mailboxes?

NUSBAUM: No.

TROBAUGH: Okay. And you've already told me that people did place signed petitions in your mailboxes.

NUSBAUM: Correct.

TROBAUGH: Given that you distributed approximately 60-70, how many would you say you received?

NUSBAUM: I don't know. Less than that.

TROBAUGH: Okay.

NUSBAUM: The fact that it was a sign out, that was part of the rationale for the sign out piece I think, Was to make it more apparent who wasn't returning them. I guess that was intended to make it more effective in collecting them. So I would imagine that the majority of them were collected.

TROBAUGH: Okay. What did you do with the signed petitions once you got them back?

NUSBAUM: I may have given them to Ed. But I'm not sure.

TROBAUGH: Do you recall forwarding any on to your, to your association?

NUSBAUM: No.

TROBAUGH: So that was a step that Ed took care of?

NUSBAUM: Somebody else did.

TROBAUGH: Okay. And when you say somebody else, does anyone else come to mind?

NUSBAUM: No.

TROBAUGH: Did Ed forward them back to the association?

NUSBAUM: I'm not sure.

TROBAUGH: And why aren't you sure?

NUSBAUM: Well probably the passage of time. And my, yeah, it's just not a clear memory for me. I'm sure that they somehow or other got to the SEA. But the exact mechanism by which they did, I do not recollect.

TROBAUGH: And you don't recollect personally delivering them back to the association?

NUSBAUM: No.

TROBAUGH: Okay. But the likely two people that would have taken that step would have been you or Ed?

NUSBAUM: Probably.

TROBAUGH: Okay. Okay. I wonder if you could just bear with me just for one moment please.

NUSBAUM: Sure.

TROBAUGH: Were there any meetings with the building reps about the campaign strategy for the Referendum 55 petitions?

NUSBAUM: Meeting with who?



TROBAUGH: Did the building reps ever get together and have monthly meetings about different union activity?

NUSBAUM: You mean just our building reps or district wide?

TROBAUGH: Either.

NUSBAUM: Well, the only active building reps that we had at Ballard at this time were Ed and myself and we talked all of the time about various things. So we didn't really need to have any kind of formal meeting to discuss this sort of thing.

TROBAUGH: So do you recall attending any meeting of any union members where campaign strategy to distribute petitions to get the teachers to...

NUSBAUM: I did attend an SEA building rep meeting that month. I guess it was something around, it was the Monday before we had a staff meeting. We have staff meetings on Wednesday, there was a meeting on Monday. And...

TROBAUGH: In the month of May?

NUSBAUM: In the month of May. For building reps from around the district. And the distribution of these petitions, and actually the petitions themselves were distributed at that meeting.

TROBAUGH: So that's how you...

NUSBAUM: That's how I got the petitions to bring back to Ballard High School.

TROBAUGH: Okay. At that meeting with the other building reps,

NUSBAUM: Right.

TROBAUGH: Did the topic of mailboxes come up?

NUSBAUM: No.

TROBAUGH: Okay. So no one from the union suggested that you distribute the petitions using the mailboxes or collect them using the mailboxes?

NUSBAUM: No.

TROBAUGH: That was something that you and Ed initiated on your own as just kind of an efficient way to take care of...

NUSBAUM: Correct.

TROBAUGH: ...collecting this. Okay. Dennis I want to give you an opportunity if there is anything that you wanted to add or delete from your statement to do so at this time.

NUSBAUM: Well I can't think of anything particular.

TROBAUGH: Okay. Then I'm going to conclude your recorded statement. The time is 11:41 and the date is still July 28 of 2004.

**PDC Interview of Ed Herbert**  
**by Suemary Trobaugh**

*July 28, 2004*

Olympia, Washington

*Tape 1, side A*

TROBAUGH: This is the recorded statement of Ed Herbert for PDC Case #04-663. The time is now 11:51 and the date is July 28th of 2004. I am Suemary Trobaugh of the Public Disclosure Commission also present is Harriet Strasburg, attorney for Ed Herbert and Sally Parker of the Public Disclosure Commission. This statement is being recorded from the offices of the PDC via telephone conference in Olympia Washington. And the oath is now going to be administered by Sally Parker.

PARKER: Good morning Mr. Herbert.

HERBERT: Hello.

PARKER: Okay. Please raise your right hand. Do you promise the answers you are about to give will be the whole truth and nothing but the truth?

HERBERT: I sure do.

PARKER: Thank you.

TROBAUGH: And Sally Parker is now going to be leaving the room. Thanks Sally. Ed do you understand that this statement is being recorded?

HERBERT: Yes.

TROBAUGH: Okay. For the record and voice identification, please say your full name and spell the last.

HERBERT: Edward C. Herbert H-E-R-B-E-R-T

TROBAUGH: Could I please have a contact address for you?

STRASBURG: That would be my address. Care of Harriet Strasburg, 3136 Marengo Southeast, Olympia, Washington 98501. And the telephone number is 360-754-0304.

TROBAUGH: Thank you. Ed I have not received a written response from you. Are you planning on sending a written response to the complaint?

HERBERT: I have never received a copy of the complaint.

STRASBURG: For the record, the complaint, he didn't receive it from the district. I did mail him a copy like sometime when he was on vacation but I didn't know he was back until today. So if you still want a written statement we can do that.

TROBAUGH: Ed did you receive a copy of the complaint from Harriet?

HERBERT: Yes.

TROBAUGH: You did. So you have seen the complaint.

HERBERT: Oh yes.

TROBAUGH: Okay. Can you tell me how long you've been a teacher.

HERBERT: 16 years.

TROBAUGH: 15 years?

HERBERT: 16

TROBAUGH: 16. I wonder if you could just speak up just a little bit more please.

HERBERT: Sure.

TROBAUGH: How long have you worked at the Ballard High School?

HERBERT: This will, this coming year will be my fifth year.

TROBAUGH: Okay. How long have you been a building representative?

HERBERT: This will be my third year.

TROBAUGH: Okay. Have you ever worked on any campaigns?

HERBERT: No.

TROBAUGH: So no levy campaign?

HERBERT: Oh, yes.

TROBAUGH: Okay. Can you perhaps describe to me the most recent campaign that you've worked on?

HERBERT: The, passing, helping after school in the evening to pass the school levy in February? February I think it was.

TROBAUGH: Okay. So did you perhaps stuff envelopes or contact voters, give voters rides to the polls. What type of activity did you do?

HERBERT: Called from a phone bank and asked voters to consider voting for the levy.

TROBAUGH: Okay. Are you aware of the prohibition on using public facilities in election campaigns?

HERBERT: Yes.

TROBAUGH: Can you describe to me how you are aware of that prohibition?

HERBERT: I guess just general news information that there's a line that you have to watch in that regard.

TROBAUGH: Can you describe to me what your understanding of the requirement is?

HERBERT: That public facilities cannot be used for political purposes to promote political agenda or those kinds of things.

TROBAUGH: Okay. Have you ever read the PDC's Guideline for School Districts in Election Campaigns?

HERBERT: I don't think I have.

TROBAUGH: Okay. Do you recall if the district or the school has ever distributed the PDC's Guidelines for School Districts in Election Campaigns?

HERBERT: Nope. They have not.

TROBAUGH: Okay. Have they distributed any of their own material concerning that prohibition?

HERBERT: Its been discussed at building rep meetings but I've never received written information regarding it.

TROBAUGH: From either the school or the union.

HERBERT: Correct.

TROBAUGH: Okay. Have you ever attended any training on this prohibition on using public facilities in election campaigns?

HERBERT: No I haven't.

TROBAUGH: When you say that it has been discussed at union meetings?

HERBERT: Occasionally someone would say, you know, can, you know just general discussion about the issue. I can't think of details but I do recall general discussion about, you know, being careful about what you use email for and those sorts of things.

TROBAUGH: Okay. So the topic of email has come up in those discussions?

HERBERT: I think so.

TROBAUGH: Okay. Do you recall if using the mailboxes has ever come up in those discussions?

HERBERT: Never discussed.

TROBAUGH: Okay. Can you tell me what you recall about the email? Use of email.

HERBERT: Just vague ideas about, you know, what, that you can't promote a particular issue or use the email to, you know, advocate.

TROBAUGH: Okay. Would you say that that discussion happened prior to the complaint being filed or after?

HERBERT: I don't recall.

TROBAUGH: Given that the complaint was filed near to the end of the school year, would you say its plausible that that happened prior? The discussions about the email was discussed prior to the complaint being filed?

HERBERT: Yeah. I just can't recall the date.

TROBAUGH: Okay. Are you familiar if the district has an employee manual?

HERBERT: Our building has a manual or staff handbook.

**PDC Interview**

**Ed Herbert**

July 28, 2004

Page 5 of 11

TROBAUGH: Okay. Does the handbook discuss the prohibition on using public facilities in election campaigns?

HERBERT: I don't know.

TROBAUGH: Okay. Looking at the documents that I had faxed to Harriet prior to the interview, there's a copy of the email that you, there's a copy of an email that appears to be from you...

HERBERT: Yes.

TROBAUGH: ...dated June 2<sup>nd</sup>.

HERBERT: Yes.

TROBAUGH: Did you write this email?

HERBERT: Yes.

TROBAUGH: Did you write this email using a school computer?

HERBERT: Yes.

TROBAUGH: Okay. Do you, well it looks like its at 7:21 a.m. so that's prior to your school day starting.

HERBERT: Correct.

TROBAUGH: Okay. Can you tell me why you sent this email?

HERBERT: I sent it because the, I'm trying to see if it was the day before, yeah I think the day before I received an email from SEA saying someone was coming to pick up petitions and it was my desire to have folks who had, by their own choice, got petitions to have them understand that they were going to be picked up later that day.

TROBAUGH: Okay. Did anyone suggest to you to forward the email that received from Maggie Crane?

HERBERT: Did anyone suggest it to me? No.

TROBAUGH: Okay. So this was something that you initiated on your own?

HERBERT: Yes.

TROBAUGH: Okay. Do you recall receiving an email from Dennis back on May 12<sup>th</sup> concerning the petitions?

HERBERT: Yes.

TROBAUGH: Okay. Were you and Dennis working together on distributing and collecting these petitions for the building?

HERBERT: Yes.

TROBAUGH: Okay. Besides sending your email, did you distribute the petitions to people?

HERBERT: Yes.

TROBAUGH: Okay. Can you describe how you did that? Did you use the mailboxes or did you hand deliver it to people?

HERBERT: We put them in each teacher's mailbox.

TROBAUGH: Okay. Was that something that perhaps both of you did at the same time?

HERBERT: No. We usually, one of us or another or other building reps or assistants will do that. So I don't recall who exactly passed them out this particular time.

TROBAUGH: There was other times that they were passed out?

HERBERT: One time. This was, we received the petitions at a rep meeting of, again I don't know the timeline, I don't have my planner here in front of me. But at a meeting before we received them and gave them out to staff members by putting them in the mailbox. It just seemed, my feeling was it was the most expedient way to do this. It was not, you know the desire to politicize but it's the only way in a building of 130 staff members to get that information to them. And from my perspective its not political in that they choose whether they want to participate or not. It's just like the United Way, you



know, the United Way hands out flyers if people want to donate they do. If not, they throw them in the trash or they do whatever. So its just a way to get the information to as many people as possible who might want to participate. And if someone does not want to receive information like that, they can let us know.

TROBAUGH: Okay. When you received the petitions at the building rep meeting, were you instructed to distribute the petitions using the mailboxes? Or did anyone suggest that you use the mailboxes to get them out?

HERBERT: No one suggested it but I think its just understood that the only way to get them to 130 people is to put them in their mailboxes. Its just too fluid and busy a situation to possibly get them to them in any other way.

TROBAUGH: Okay. Dennis described that he thought he distributed probably half of the petitions to the employees. Would you say that that's accurate? That you and he split them in half and distributed them?

HERBERT: I don't recall. But in general one person will do it or one assistant or one other building rep will do it. I don't know though. I can't recall how. I know that one was likely put in each person's box but I don't know the specifics of this situation.

TROBAUGH: Okay. Now when you talk about another building rep possibly or an assistant, were there three building reps at Ballard High School?

HERBERT: There are four building reps and an alternate.

TROBAUGH: Okay. So who are those other building reps?

HERBERT: This year they were Michael Palsnith and I can't recall who the other, Megan Vogel.

TROBAUGH: Okay.

HERBERT: Those were the four building reps and Margo Sims was the alternate.

TROBAUGH: Okay. And when you refer to an assistant, are you referring to perhaps an administrative assistant in the office?

HERBERT: No. Just somebody who has a desire to...

TROBAUGH: To assist?

HERBERT: A teaching assist who would want to, a staff member who is a teaching assistant who would have a desire to hand those out, pass those out.

TROBAUGH: Okay. Do you recall those other people being involved in distributing or collecting the petitions?

HERBERT: No.

TROBAUGH: Okay. Do you believe that primarily you and Dennis distributed and collected these petitions?

HERBERT: Yes.

TROBAUGH: Okay. Okay. Do you recall placing a packet at the front desk on or around May 13<sup>th</sup> for the completed petition to be placed in?

HERBERT: I can't recall exactly what happened, but the email indicated from SEA folks, that they were coming to get them and rather than have them try to find us, we were just looking for a way that they could come into the building and pick them up and leave, to you know, maximize everyone's time. So they were either left in Dennis or my mailbox or, I don't know. Yeah. I don't know exactly. But I know they came and picked them up and they were likely in one of our boxes.

TROBAUGH: Okay. And not at the front desk?

HERBERT: Correct.

TROBAUGH: Okay. So did you distribute Initiative 884 petitions as well?

HERBERT: Yes. Both were given out.

TROBAUGH: Okay. And that was something that you also had received at that building rep?

HERBERT: Correct. On the same day.

TROBAUGH: Okay. Given that you sent your email on June 2<sup>nd</sup> to all staff, did your principal receive this email?

HERBERT: Sure.

TROBAUGH: Okay. Did your principal come to you?

HERBERT: He came to me when the complaint came to him and said you know that somebody had obviously complained about this.

TROBAUGH: Okay. Did your principal ever tell you you shouldn't be using the email for this purpose?

HERBERT: He said it was unclear that, you know, whether we should or not and that it would be clarified. Or that I had not been trained specifically on something like this.

TROBAUGH: I wonder if you could just describe that conversation again. What do you recall your principal telling you?

HERBERT: He called me down to his office and showed me the complaint and said that someone had, someone was upset that they felt that something improper had happened and that from then on we should make sure not to do that.

TROBAUGH: And correct me if I'm wrong, but I thought you said that he said that you didn't have any training. Prior training.

HERBERT: Right in a prior conversation he said, I'm trying to remember, but something like they would, since we had not been specifically trained on something like this, you know that potentially he would get in trouble. But it was.

TROBAUGH: Okay. If you could just bear with me one moment please.

HERBERT: Sure.

TROBAUGH: And I think you've already said that you believe that you could use the staff email to distribute information on the petitions because you saw it as union communication. Is that correct?

HERBERT: Yes. Its, my feeling is we're just sharing information. No one is being compelled to do anything. Its if someone wants to. And indeed obviously some people want to work on behalf of these things. It provides them an opportunity. Those who don't want to don't have to. And you know, its just, its neutral. Its just sharing information that the union has a desire to share. And that's my job is to share those, share information that's given to me as a building rep with my school. And the staff at my school.

TROBAUGH: Okay.

HERBERT: With the members. With the SEA members.

TROBAUGH: Do you recall when you would distribute or collect petitions? Was it ever during the school day?

HERBERT: No. We would give them out after school or before school. We would put them in boxes after school or before school.

TROBAUGH: Okay. And then people would typically stop at their mailboxes prior to their day beginning. So they would stop in the morning and receive it the next day?

HERBERT: People stopped at all times. And read their email at all times.

TROBAUGH: Okay.

HERBERT: There is no, with a staff like that, some people indeed are not there everyday so that's the reason. It provides the opportunity to share that information in the most neutral way and to give everybody the opportunity to participate in the things that they want to.

TROBAUGH: Okay. As a result of the complaint being filed, I believe you stated that your principal said using the email in this fashion, using the mailboxes in this fashion needs to stop. Would you say that's a fair characterization?

HERBERT: He said, yes. And he sent out an email to the staff in that, discussing that.

TROBAUGH: Okay. And I want to give you an opportunity if there is anything that you wanted to add or delete from your statement to do so at this time.

HERBERT: No. Just that, like I said, you know, as a building rep I feel its my responsibility to share the information that's given to me with my staff and indeed in a school this big its difficult to do that. So there's never an intention to coerce anyone to do anything. Its just providing those folks who are represented by that union the opportunity to receive that information in a meaningful way. And in a timely way.

TROBAUGH: And again, just for clarification, it's your belief that sending information concerning a ballot issue is not campaigning.

HERBERT: Correct. Because its, it just provides the opportunity for them to participate if they like and indeed, most people ignore it.

TROBAUGH: Okay. I'm going to conclude the recorded statement. The time is now 12 minutes after 12 o'clock on July 28<sup>th</sup> of 2004.

**PDC Interview of Charles Chinn**  
**by Suemary Trobaugh**

**August 25, 2004**

Olympia, Washington

*Tape 1, side A*

TROBAUGH: This is the recorded statement of Charles Chinn for PDC Case #04-663 and 04-664. The time is now 9:03 and the date is August 25th of 2004. I am Suemary Trobaugh of the Public Disclosure Commission also present is Sally Parker of the Public Disclosure Commission and John Cerqui, attorney for the Seattle Public School District. This statement is being recorded via telephone conference from the offices of the PDC in Olympia Washington. The oath is now going to be administered by Sally Parker.

PARKER: Good morning, can you hear me okay?

CHINN: Yes.

PARKER: Okay. Please raise your right hand. Do you promise that the answers you are about to give will be the whole truth and nothing but the truth?

CHINN: Yes.

PARKER: Thank you.

TROBAUGH: Charles I wonder if I could ask you to perhaps sit a little closer to the phone or speak up just a little bit more. We're having a difficult time hearing you.

CHINN: Is this better?

TROBAUGH: It is. Thank you. Do you understand that this statement is being recorded sir?

CHINN: Yes.

TROBAUGH: For the record and voice identification, please say your full name and spell the last.

CHINN: Charles G. Chinn. Last name is spelled C-H-I-N-N.

TROBAUGH: And what is a contact address for you sir?

CHINN: Contact address, work?

TROBAUGH: That works for me.

CHINN: Work contact?

TROBAUGH: Sure.

CHINN: Roosevelt High School at Lincoln, 4400 Interlake Avenue N, Seattle, Washington 98103.

TROBAUGH: And what is your work telephone number?

CHINN: 252-4810, area code 206.

TROBAUGH: Okay. Were you the interim principal for Ballard High School in 2004?

CHINN: Yes.

TROBAUGH: When did you, when were you placed there?

CHINN: Approximately December 2<sup>nd</sup> or 3<sup>rd</sup>.

TROBAUGH: Okay so in 2003 you were placed there and you served for the rest of the school year?

CHINN: Correct.

TROBAUGH: Okay. How many years have you been a principal sir?

CHINN: Prior to that experience, 10 years at Ballard High School and the better part of a, oh from October to the beginning of February at an interim sight at G South High School.

TROBAUGH: Now I understand that you retired and that you were brought out of retirement?

CHINN: For this second occasion, yes.

TROBAUGH: Okay. At Ballard High School did you know who the building reps were at that school?

CHINN: I did not know who all of the building reps were.

TROBAUGH: Okay. Do you now know?

CHINN: No.

TROBAUGH: Okay. Are you aware of the prohibition on using public facilities in election campaigns?

CHINN: Yes.

TROBAUGH: Can you describe to me how you are aware of that prohibition?

CHINN: Through notification that was received from the legal counsel's office.

TROBAUGH: So recent or would you say that you had been aware of this prohibition for some time?

CHINN: Most recent notification came out two days after I was appointed to the interim position at Ballard High School.

TROBAUGH: Okay but you were aware prior...

CHINN: Yes.

TROBAUGH: ...to January of 2004 of the prohibition?

CHINN: Yes.

TROBAUGH: Now you say in January you did receive notification. Was that the PDC's update Guidelines for School District's in Election Campaigns? Or was it something that the Seattle Public School District put together?

CHINN: It was something that the Seattle School District put together. A memorandum from Mr. Cerqui's office.

TROBAUGH: I see. Okay. Have you ever read the PDC's Guidelines for School District's in Election Campaigns?

CHINN: I don't think so. No.

TROBAUGH: Okay. There's a number of versions out there and I was just wondering if you had ever read any of the versions of the



Guidelines. Did the district in 2003/2004 ever distribute information on the prohibition to employees?

CHINN: Yes.

TROBAUGH: Could you be a little bit more descriptive about when and what that was?

CHINN: A document came out I believe in June that year.

TROBAUGH: Of 2004?

CHINN: That is correct. And that's when I sent it to my staff.

TROBAUGH: Okay.

CHINN: It actually is dated to from your commission to school superintendent's from Susan Harris.

TROBAUGH: That's the May 18<sup>th</sup> memorandum...

CHINN: Exactly.

TROBAUGH: ...from Susan Harris our Assistant Director.

CHINN: Right.

TROBAUGH: Okay.

CERQUI: Marysue I know it's not, I just wanted to clarify that that's something that Chuck did after he got notice of the complaint. So that was something that he sent out to all of his staff.

TROBAUGH: I understand. I guess what I am trying to establish Charles is if you are aware if anything had gone out in that school year prior to that June distribution that you did.

CHINN: No.

TROBAUGH: Not that you are aware of?

CHINN: Not that I recall.

TROBAUGH: Okay. In, who was the principal at Ballard High School prior to your being there?

CHINN: (inaudible)

TROBAUGH: Okay. Given that you have been a principal at Ballard High School for the past, for 10 years in the past, do you recall if the school district ever distributed information on the prohibition to school employees?

CHINN: I don't recall.

TROBAUGH: Okay. Have you personally ever attended training on the prohibition on using public facilities in election campaigns?

CHINN: I recall vaguely that at either a meeting or at a retreat that that may have been discussed.

TROBAUGH: Okay. Was that a presentation conducted by the PDC or was it perhaps just a roundtable discussion amongst principals?

CHINN: It was probably an announcement that was made during one of those venues.

TROBAUGH: Okay. Do you know if the district employee manual discusses the prohibition on using public facilities in election campaigns?

CHINN: I do not recall.

TROBAUGH: Okay. I wonder if you could please look into that or John if you could please look into that.

CHINN: Okay.

TROBAUGH: I would like to see documentation if it does discuss the prohibition. Are you aware of what the collective bargaining agreement covers concerning association communications?

CHINN: Yes.

TROBAUGH: Does the collective bargaining agreement mention the prohibition on using public facilities in election campaigns at all? I guess specifically in that section of membership communication?

CERQUI: Marysue I could forward to you, there's a provision in the collective bargaining agreement that talks about the rights of SEA, our union, to have access to email. And that provision probably speaks for itself. I mean the documents like 120 pages so.

TROBAUGH: Right. And I'm hoping just to see the portion pertaining to the association communication.

CERQUI: Is that something you would like us to send to you after the hearing? Or after this interview?

TROBAUGH: That sounds great. Thanks.

CERQUI: Okay.

TROBAUGH: And John my first name is Suemary.

CERQUI: Oh I'm sorry.

TROBAUGH: That's okay. Charles do you have the documents that I sent to John that includes Dennis Nusbaum's email and Ed Herbert's email?

CHINN: Yes.

TROBAUGH: Okay. I wonder if you could please look to those documents and please turn to Dennis Nusbaum's email entitled "Referendum 55 Petitions" which is dated May 12<sup>th</sup>.

CHINN: Got it.

TROBAUGH: Okay. I see that it was distributed to all staff.

CHINN: Correct.

TROBAUGH: So I'm assuming that you did receive this email. Is that correct?

CHINN: That's correct.

TROBAUGH: Okay. When the email came in on May 12<sup>th</sup> would you say that you read it at that time or was it just perhaps a number of emails that came in that you didn't perhaps look at very closely?

**PDC Interview**  
**Charles Chinn**  
August 25, 2004  
Page 7 of 12

CHINN: The latter is correct.

TROBAUGH: That you did not look at this email very closely when it came in?

CHINN: That is correct.

TROBAUGH: Okay.

CHINN: I don't even remember if I opened it at that time.

TROBAUGH: Okay. Do you know if Mr. Nusbaum wrote this email using a school computer?

CHINN: I have no idea where he originated this email.

TROBAUGH: Okay. You never asked him?

CHINN: I did not.

TROBAUGH: Okay. Do you know why he sent this email?

CHINN: That would be speculation on my part.

TROBAUGH: Because you never asked him why he sent it?

CHINN: Correct.

TROBAUGH: Okay. So after you received this email you didn't open it, perhaps you did open it, you didn't read it closely. So when did you first speak to Mr. Nusbaum about this email?

CHINN: After Mr. Cerqui informed me that there was a complaint.

TROBAUGH: Okay. So that was perhaps in the month of June?

CHINN: I believe so, yes.

TROBAUGH: It looks like June 3<sup>rd</sup> is when we received the complaint and we would have given notice to the respondent, I believe John received a fax on the 4<sup>th</sup> concerning the complaint. So when you spoke to Mr. Nusbaum do you recall what you told him?

CHINN: I told him that there was this concern and I asked him to read the Guidelines as relayed to me by Mr. Cerqui and that there was potential that he would be in violation of the law.

TROBAUGH: Okay. As part of that discussion did you request that he cease using the email in that fashion?

CHINN: I advised him not to use the email in that fashion, yes.

TROBAUGH: Okay. Did you talk to him about the use of the mailboxes as well?

CHINN: No. We spoke specifically about the email.

TROBAUGH: Okay. Did you try to put your hands around the scope of the problem? I mean given that a second complaint was filed against Ed Herbert.

CHINN: Actually when I was made aware of the situation they were notifications and from Mr. Cerqui concurrently. So they were handled in the same manner.

TROBAUGH: So you spoke with Ed Herbert and Dennis Nusbaum at approximately the same time?

CHINN: I believe it was either the same day or the following day.

TROBAUGH: Okay. Are you aware if Mr. Nusbaum distributed Referendum 55 and Initiative 884 petitions using the mailboxes?

CHINN: This is the first I'd heard of that?

TROBAUGH: Are you aware if in the month of May there was a packet at the office's front desk with completed petitions in?

CHINN: This is the first time I am aware of that also.

TROBAUGH: Okay. Do you recall receiving an email from Ed Herbert entitled "June 2<sup>nd</sup> Pick up Petitions" which he sent on June 2<sup>nd</sup>.

CHINN: Would you repeat the question please?

TROBAUGH: I'm asking Charles if you received Ed Herbert's email.

CHINN: Yes.

TROBAUGH: Did you read this email when you received it?

CHINN: No.

TROBAUGH: As a result of the complaint being filed against Mr. Herbert did you read it at that time?

CHINN: Yes.

TROBAUGH: So when approximately was that?

CHINN: Was that June 4<sup>th</sup> approximately.

TROBAUGH: So two days later after he sent it.

CHINN: When Mr. Cerqui made me aware of the complaint.

TROBAUGH: And you said that was June 4<sup>th</sup>.

CHINN: I think that was approximately June 4<sup>th</sup>, yes.

TROBAUGH: Okay. Which would have been two days after Ed Herbert sent his email. In Mr. Herbert's email he discusses that people could put petitions in his mailbox and Dennis Nusbaum's mailbox. Did you talk to Ed Herbert about the use of the mailboxes?

CHINN: Again, we spoke about the emails and advised him not to use the email.

TROBAUGH: So you never discussed the mailboxes?

CHINN: Not to the best of my recollection, no.

TROBAUGH: Okay. Do you recall why you didn't?

CHINN: Probably an oversight on my part.

TROBAUGH: Okay.

CHINN: Correction advice was for me to review the emails with both parties from Mr. Cerqui.

TROBAUGH: Okay.

CHINN: So in that context yes.

TROBAUGH: Okay. Are you aware of whether or not your staff members did place petitions in Mr. Herbert and Mr. Nusbaum's mailboxes?

CHINN: No.

TROBAUGH: As part of your follow up that you did to all staff when you distributed Susan Harris' memo from the PDC concerning Referendum 55, did you, did you do anything else besides just distributing that memo?

CHINN: No. Excuse me. I did distribute the Public Disclosure Commission memorandum to all staff with this statement, "per the attached bulletin staff members are reminded not to use district email and equipment including mailboxes to support or oppose Referendums or ballot measures."

TROBAUGH: Okay. I'd like to request a copy of that cover letter as well. That you attached to the memo.

CERQUI: And I'll get that to you Suemary. It's actually done on the memorandum itself in the upper right hand corner.

TROBAUGH: Okay. Okay. So although you're, you're statement on the memo, on Susan Harris' memo addresses mailboxes you never personally spoke to Ed Herbert or Dennis Nusbaum about their use of mailboxes? Is that correct.

CHINN: Specifically regarding mailboxes no.

TROBAUGH: Okay.

CHINN: Specific to the email yes.

TROBAUGH: Okay. And I believe you've already stated this I just want to clarify. Because you never discussed the mailboxes you never, you never explored the scope of the problem at hand. Meaning you didn't know how many times the mailboxes were used, how many people received petitions in their mailboxes and the like. Is that correct?

CHINN: Correct.

TROBAUGH: Okay. Can you tell me if anyone from the district knew that your staff members were using the email system and mailboxes for petitions?

CHINN: Mr. Cerqui knew at that point.

TROBAUGH: As a result of the complaint being filed.

CHINN: Yes.

TROBAUGH: Okay.

CHINN: That's the only knowledge that I have.

TROBAUGH: Okay. I guess I just find it disconcerting that you received two emails concerning campaign activity happening at your school and that you didn't take any preventative measures at the point of which those emails were distributed.

CERQUI: Well he testified that he doesn't recall reading the emails.

TROBAUGH: Yeah.

CERQUI: I think I'd like to have you ask that question does he know the, you asked if he knew all of the business reps of the school. But I would like to have you ask if he knew that Dennis and Ed was a business rep for SEA.

TROBAUGH: I believe its building rep not business rep.

CERQUI: Well I'm sorry. I represent another union and they call them business reps...

TROBAUGH: Oh I see.

CERQUI: ...in the classified arena.

TROBAUGH: Oh. Okay.

CERQUI: But if you don't mind asking that question that might provide further information to you.

TROBAUGH: Do you have further information Charles concerning Dennis or Ed?



CHINN: At the time when these emails came out I recognized that Ed Hebert was a building rep. But I didn't really recall that Dennis Nusbaum was.

TROBAUGH: Would you say that the reason that you didn't read their emails is that you believe that this was just SEA communication?

CHINN: Yes. There are quite a few mail, the mail that I get are entitled all staff that I just glance over or don't bother to read to be quite honest with you.

TROBAUGH: Okay. This is the point in the interview that if you wanted to add or delete anything from your statement you could do so at this time.

CHINN: I would say that there are probably, to my understanding, there are other building reps at Ballard as well during that current year and I don't have knowledge or recall who they are either.

TROBAUGH: Okay then I'm going to conclude your recorded statement. The time is now 6:23 and the date is still August 25<sup>th</sup>.



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111  
Toll Free 1-877-601-2828 • E-mail: [pdcc@pdc.wa.gov](mailto:pdcc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)

Staff:

Per the attached bulletin, staff members are reminded not to use District e-mail and equipment including mailboxes to support or oppose referendums or ballot measures.

C.G. Chinn

MEMORANDUM

TO: School District Superintendents

FROM: Susan Harris, Assistant Director

DATE: May 18, 2004

SUBJECT: Use of Public Facilities – Caution – Referendum 55 Petitions

This memorandum is a reminder that school district facilities, including the internal mail systems, are prohibited from being used by school district administrative staff, teachers and other district personnel to distribute information that supports or opposes a statewide referendum, a statewide or local ballot proposition, or a candidate for public office.

We have been informed that Referendum #55 petitions are being distributed through the internal mail systems of some school districts. If you have knowledge that any of the activities listed in this memorandum are being undertaken, please take the necessary corrective action to insure that they are curtailed.

As Superintendents of a school district, please remind all school district personnel of PDC Interpretation #01-03, Guidelines for School Districts in Election Campaigns. That interpretation may be found on our website at [www.pdc.wa.gov](http://www.pdc.wa.gov) by selecting the Guide to the Law icon, and then clicking on Commission Interpretations. NOTE- the Guidelines are only an interpretation that is meant to aid and assist in compliance with the law, but it does not constitute actual rules.

If you have questions, you may contact PDC at (360) 753-1111, toll-free at 1-877-601-2828 or by e-mail at [pdcc@pdc.wa.gov](mailto:pdcc@pdc.wa.gov) and ask for assistance from the Compliance staff.

EXHIBIT 6

Page 1 of 1



## Collective Bargaining Agreement between

Seattle School District No. 1 and SEA Certificated Non-Supervisory Employees  
2001 - 2004



SEATTLE  
PUBLIC  
SCHOOLS

DELIVERING ON THE DREAM

academic achievement for  
every student in every school

SEATTLE  
EDUCATION  
ASSOCIATION

### ARTICLE III: GENERAL RIGHTS AND RESPONSIBILITIES

these provisions, except that subsequent discussions of the evaluation following the receipt of the written evaluation may involve representation pursuant to these provisions.

4. Any complaint not called to the attention of the employee may not be used as the basis for disciplinary action or adverse evaluation against the employee. Any written record made of a complaint against an employee must be called to the attention of the employee within ten (10) working days of the time the record was made.
5. No employee shall be disciplined without just and sufficient cause. A process of progressive discipline will be used. Progressive discipline includes, but is not limited to, oral warning, written warning or reprimand, suspension and/or termination as appropriate to the circumstances. The District may bypass the steps of the progressive discipline process in any situation because of the seriousness of the employee conduct that constituted just cause for discipline. Any such action, except an oral warning not documented or recorded in the employee's personnel file, shall be subject to the grievance procedure including binding arbitration. The specific grounds forming the basis for disciplinary action will be made available to the employee in writing. This section shall not apply to matters covered by statutory due process procedures.

#### SECTION E: Employee Personnel Files

1. Materials placed in the employee's District personnel file after the employee's election by the Board to a position with the District are available for review by the employee under the rules, regulations, and procedures of the District.
2. All materials related to an employee's evaluation held at the work location, except for the building copy of the formal evaluation, shall either be transferred to the District personnel file or shall be destroyed at the end of the work year, except that the observation criteria checklists for those employees determined to be unsatisfactory and/or in need of improvement may be retained in the building until such time as the employee's performance has improved as set forth in the observation criteria checklist. However, observation criteria checklists for those employees determined to be in need of improvement may not be retained beyond twelve (12) months following the completion of the next school year's performance evaluation.
3. College/university credentials that are confidential shall be handled as directed by the college/university after election of the employee to the staff.
4. Materials reviewed by an employee and judged by the employee to be derogatory to his/her conduct, service, character, or personality may be:
  - a. Answered and/or refuted by the employee in writing. Such written response shall be permanently attached to said materials and shall become a part of his/her written personnel records.
  - b. Pursued by use of the grievance procedure.
5. Material judged through the grievance procedure to need adjustment shall be modified or removed as appropriate.

#### SECTION F: Communication Rights and Privileges

1. The Association shall have the right to post notices of its activities and matters of organizational concern on a bulletin board to be provided in each school building by the District.
2. The Association may use District school buildings for meetings and to transact official business on school property at all reasonable times when custodians are normally on duty before and after

### ARTICLE III: GENERAL RIGHTS AND RESPONSIBILITIES

school hours, provided that this shall not interfere with nor interrupt normal school operations as determined in consultation with the building principal/program manager or supervisor.

3. Any officer or authorized representative of the Association, so designated by the Association and identified to the Superintendent, shall have the right to visit District buildings, individual employees, or groups of employees represented by the Association, at reasonable times when employees are not on duty, such as before and after work hours and at lunch time or at other times by special arrangement through the principal or his/her designee, provided that this shall not interfere with nor interrupt normal school operations. In all instances, the authorized representative or representatives shall report to the school office and satisfy the principal or his/her designee that they are on official business or are visiting to observe the educational program of the school before they proceed through the building to any room. All such visits must not interfere with any employee's activities while on duty nor disrupt the orderly educational process of the school or program.
4. The District and the Association agree that having the Association included in the District's E-mail program is an important element of building quality communications. The Association will take the necessary steps to ensure that all communications are accurate and in line with its duties as bargaining representative.

#### SECTION G: Academic Freedom

1. The exercise of full rights of citizenship is guaranteed by the District for employees. Toward that end the employee must be free to think and to express ideas, free from undue pressure of authority, and free to act within his/her professional group. Such freedom must be unrestricted except as it conflicts with the basic responsibility to utilize properly the current District authorized course of study and District rules and regulations which each member of the profession must accept.
2. The principle of academic freedom for employees shall not supersede the basic responsibilities of the employee to the education profession. These responsibilities include:
  - a. A commitment to support the Constitution of the United States;
  - b. A concern for the welfare, growth, and development of children; and,
  - c. An insistence upon objective scholarship.
3. The professional staff shall assist in designing the curriculum, in conformity with the laws of Washington and the rules and regulations of the State Board of Education.
4. Free interchange of ideas leading to clearer understandings at the maturity level of pupils must be expected as a part of effective teaching. Any challenge of members of the professional staff relative to the use of educational materials on the basis of suitability, upon their presentation of ideas involving morality or patriotism, or upon their literary merit, shall be resolved through utilizing established administrative channels.
5. No single instructional philosophy or technique is prescribed by the District for the instruction of a Special Education student.
6. The District agrees to conform to the School Board policy concerning ownership provisions of copyright materials.

**MEMORANDUM OF UNDERSTANDING CONCERNING  
SEA USE OF DISTRICT ELECTRONIC MAIL (E-MAIL) CAPACITY**

**between**

**THE SEATTLE SCHOOL DISTRICT**

**and**


**THE SEATTLE EDUCATION ASSOCIATION**

This Memorandum of Understanding is entered into by the Seattle School District No. 1 (District) and the Seattle Education Association (Association/SEA) representing certificated non-supervisory, education office, and paraprofessional employees. The parties have agreed that this Memorandum shall expire on August 31, 2004.

The District and the Association shall meet to facilitate SEA use of District electronic mail (E-Mail) capacity. Prior to the finalization of the right of SEA to use the E-Mail, the following problems must be resolved:

1. The District shall incur no additional cost as a result of the SEA use of E-Mail. This means that the SEA will pay for all equipment, installation costs, supplies, training costs, system security provisions, overhead expenditures and any other costs of any nature that may arise.
2. There shall be no additional workload or expense at the school site.
3. The District authorizes the SEA to secure permission from WordPerfect, the licensor, to participate in the District's master license. It shall be an SEA responsibility to secure final permission.
4. Any communications from the SEA will first be routed through District-approved locations to ensure that the communication is accurate, non-slandorous and is for the purpose of communicating with employees in connection with the Association's duties as bargaining representative.
5. SEA use of the E-Mail system does not cause the system to become overloaded.
6. The parties ensure that, for system security purposes, the SEA access will be to E-Mail only.

To the extent that this Memorandum of Understanding is in conflict with any provisions of the three (3) 2001-2004 Collective Bargaining Contract/Agreements between the parties, the agreements set forth in this Memorandum of Understanding shall control and any inconsistent provisions of the negotiated Contract/Agreements shall be deemed modified for the duration of this Memorandum of Understanding.

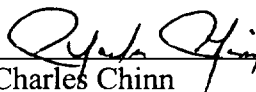
  
I declare under penalty of perjury that the following facts are true and correct to the best of my knowledge:

1. Staff mailboxes can be used by other staff to distribute any type of materials, letters, or information. The District does not censor the materials put into staff mailboxes. Outside mail addressed to staff members is delivered and placed in staff mailboxes without being reviewed.
2. The District permits staff to use District e-mail for a limited amount of personal use (see attached network use agreement).
3. In the network use agreement, the District prohibits e-mail from being used for political purposes (see attached network use agreement).

The following conduct is prohibited on the District network:

5. Supporting or opposing a political candidate, an election campaign, or a ballot proposition, including a school levy.

Dated this 26<sup>th</sup> day of August, 2004.

  
Charles Chinn

## Seattle Public Schools Network Use/Access Agreement

The Seattle School District is pleased to offer its employees access to the District's computer network, which includes word processing, electronic mail, and Internet services. The District's network should be used primarily for work related and educational purposes. All information and services contained on District computers are placed there solely for job related functions. Access to the network is a privilege—not a right—and it may be revoked by the District at any time.

The District has the right to review any material stored in a District computer or accessed through the network. The District also has the right to edit or remove any materials installed, used, stored, or distributed on or through the District's network or system. Files stored or materials accessed through the network are not private. The waiver of privacy does not mean that network users or the District waives confidentiality rights with respect to materials that are subject to statutory or common law privileges (e.g., attorney-client, medical records) or that are otherwise not subject to disclosure as public records.

The District does not warrant the functions of the Internet service or that any of the networks accessible through the Internet service will meet any specific requirements an employee may have, or that the Internet service will be error free or uninterrupted. Nor shall the District or any administrators be liable for any direct or indirect, incidental, or consequential damages sustained or incurred in connection with the use, operation, or inability to use the network.

The following conduct is prohibited on the District network:

1. Transmitting or accessing obscene, pornographic, graphically violent, or sexually inappropriate material or pictures for a non-educational purpose;
2. Using obscene, graphically violent, or sexually inappropriate language for a non-educational purpose;
3. Engaging in practices that may harm or destroy data on any system or on the network or disrupt the operation of the network;
4. Installing, storing, or distributing copyrighted software or materials in violation of copyright law;
5. Supporting or opposing a political candidate, an election campaign, or a ballot proposition, including a school levy;
6. Sharing computer authorization, including your password, with any person, except to an authorized network administrator.
7. Transmitting or accessing material that discriminates against, harasses, defames, or insults another person, which includes sending or receiving sexually explicit, racial, or gender inappropriate jokes or messages;
8. Using the network to violate District policies;
9. Encrypting communications to avoid District review;
10. Intentional and unauthorized access in another person's folders or work files; and
11. Using the network for illegal activities (e.g., sale of drugs, bomb making, or computer "hacking").

The above list is not exclusive and the District is the sole arbiter of what conduct is inappropriate and thus prohibited on the network. A network administrator will report inappropriate conduct to an employee's supervisor and to human resources so that appropriate disciplinary action may be taken. Any other reports of inappropriate behavior, violations, or complaints will be routed to the employee's supervisor or to human resources so that appropriate disciplinary action may be taken. Engaging in prohibited or inappropriate conduct may result in the loss of access to the network as well as other disciplinary action up to and including termination of employment. When applicable, law enforcement agencies may be involved.

In consideration for the privilege of using the District's network or other computer services, I grant the District permission to monitor my activities on the network and I hereby waive any right to privacy which I may otherwise have in such materials. I have also read and understand the above Network Use/Access Agreement. I acknowledge and agree to all the conditions set forth in this document.

Print Name	Signature
Location/Position	Date